HEALTH AND SAFETY CODE

TITLE 2. HEALTH

SUBTITLE D. PREVENTION, CONTROL, AND REPORTS OF DISEASES; PUBLIC HEALTH DISASTERS AND EMERGENCIES

CHAPTER 85. ACQUIRED IMMUNE DEFICIENCY SYNDROME AND HUMAN IMMUNODEFICIENCY VIRUS INFECTION

SUBCHAPTER A. GENERAL PROVISIONS AND EDUCATIONAL MATERIALS

Sec. 85.001. SHORT TITLE. This chapter may be cited as the Human Immunodeficiency Virus Services Act.

Added by Acts 1991, 72nd Leg., ch. 14, Sec. 36, eff. Sept. 1, 1991.

Sec. 85.002. DEFINITIONS. In this chapter:

(1) "AIDS" means acquired immune deficiency syndrome as defined by the Centers for Disease Control and Prevention of the United States Public Health Service.

(2) "Communicable disease" has the meaning assigned by Section 81.003.

(3) "Contact tracing" means identifying all persons who may have been exposed to an infected person and notifying them that they have been exposed, should be tested, and should seek treatment.

(4) "HIV" means human immunodeficiency virus.

(5) "State agency" means:

(A) a board, commission, department, office, or other agency that is in the executive branch of state government and that was created by the Texas Constitution or a state statute and includes an institution of higher education as defined by Section 61.003, Education Code;

(B) the legislature or a legislative agency; and

(C) the supreme court, the court of criminal appeals, a court of appeals, the State Bar of Texas, or another state judicial agency.

(6) "Testing program" means a program using a diagnostic test approved by the United States Food and Drug Administration to indicate the presence of HIV.

Added by Acts 1991, 72nd Leg., ch. 14, Sec. 36, eff. Sept. 1, 1991.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 3.0263, eff. April 2, 2015.

Sec. 85.003. DEPARTMENT AS LEAD AGENCY AND PRIMARY RESOURCE. The department, in the discharge of its duty to protect the public health, shall act as the lead agency for AIDS and HIV policy for Texas and is the primary resource for HIV education, prevention, risk reduction materials, policies, and information in this state.
Added by Acts 1991, 72nd Leg., ch. 14, Sec. 36, eff. Sept. 1, 1991.
Amended by Acts 1993, 73rd Leg., ch. 708, Sec. 2, eff. Sept. 1, 1993.

Sec. 85.004. EDUCATIONAL MATERIALS. (a) The department shall develop model educational materials to be available on the department's Internet website to educate the public about AIDS and HIV infection.

(b) The educational materials must:

(1) include information about methods of transmission and prevention of HIV infection, state laws relating to the transmission, and conduct that may result in the transmission of HIV; and

(2) be scientifically accurate and factually correct and designed to:

(A) communicate to the public knowledge about methods of transmission and prevention of HIV infection; and

(B) educate the public about transmission risks in social, employment, and educational situations.
Added by Acts 1991, 72nd Leg., ch. 14, Sec. 36, eff. Sept. 1, 1991.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 3.0265, eff. April 2, 2015.

Sec. 85.005. EDUCATIONAL MATERIALS DESIGNED FOR CERTAIN PERSONS; SPECIFIC INFORMATION. (a) The department shall include

in the educational materials specific information designed to reach:

(1) persons with behavior conducive to HIV transmission;

(2) persons younger than 18 years of age; and

(3) minority groups.

(b) In developing educational materials for ethnic minorities and in assisting local community organizations in developing educational materials for minority groups, the department shall ensure that the educational materials reflect the nature and spread of HIV infection in minorities in this state.

Added by Acts 1991, 72nd Leg., ch. 14, Sec. 36, eff. Sept. 1, 1991.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 3.0265, eff. April 2, 2015.

Sec. 85.006. EDUCATIONAL MATERIALS FOR PERSONS WITH DISABILITIES. (a) The department shall develop and promote the availability of educational materials concerning HIV and prevention of HIV infection specifically designed to address the concerns of persons with physical or mental disabilities.

(b) In developing those educational materials, the department shall consult persons with disabilities or consult experts in the appropriate professional disciplines.

(c) To the maximum extent possible, state-funded HIV education and prevention programs shall be accessible to persons with physical disabilities.

Added by Acts 1991, 72nd Leg., ch. 14, Sec. 36, eff. Sept. 1, 1991.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 3.0266, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 3.0267, eff. April 2, 2015.

Sec. 85.007. EDUCATIONAL MATERIALS FOR MINORS. (a) The department shall give priority to developing model educational materials for education programs for persons younger than 18 years

of age.

(b) The materials in the education programs intended for persons younger than 18 years of age must:

(1) emphasize sexual abstinence before marriage and fidelity in marriage as the expected standard in terms of public health and the most effective ways to prevent HIV infection, sexually transmitted diseases, and unwanted pregnancies; and

(2) state that homosexual conduct is not an acceptable lifestyle and is a criminal offense under Section 21.06, Penal Code.

(c) In addition, the educational materials intended for persons younger than 18 years of age must:

(1) teach that sexual activity before marriage is likely to have harmful psychological and physical consequences;

(2) teach adolescents ways to recognize and respond to unwanted physical and verbal sexual advances;

(3) teach that the use of alcohol or drugs increases a person's vulnerability to unwanted sexual advances; and

(4) emphasize the importance of attaining self-sufficiency before engaging in sexual activity.

Added by Acts 1991, 72nd Leg., ch. 14, Sec. 36, eff. Sept. 1, 1991.

Amended by Acts 1999, 76th Leg., ch. 1411, Sec. 24.01, eff. Sept. 1, 1999.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 3.0268, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 3.0269, eff. April 2, 2015.

Sec. 85.008. PROMOTION OF AVAILABILITY OF EDUCATIONAL MATERIALS. The department shall determine where HIV education efforts are needed in this state and shall promote the availability of educational materials on the department's Internet website in those areas.

Added by Acts 1991, 72nd Leg., ch. 14, Sec. 36, eff. Sept. 1, 1991.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 3.0270,

eff. April 2, 2015.

Sec. 85.009. AVAILABILITY OF EDUCATIONAL MATERIALS. The department shall make the educational materials available on the department's Internet website for local governments and private businesses.

Added by Acts 1991, 72nd Leg., ch. 14, Sec. 36, eff. Sept. 1, 1991.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 3.0270, eff. April 2, 2015.

Sec. 85.010. EDUCATIONAL COURSE FOR EMPLOYEES AND CLIENTS OF HEALTH CARE FACILITIES. A health care facility licensed by the department or the Department of Aging and Disability Services shall require its employees to complete an educational course about HIV infection based on the model educational materials developed by the department.

Added by Acts 1991, 72nd Leg., ch. 14, Sec. 36, eff. Sept. 1, 1991.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 3.0270, eff. April 2, 2015.

Sec. 85.011. CONTRACTS FOR EDUCATIONAL MATERIALS. (a) The department may contract with any person, other than a person who advocates or promotes conduct that violates state law, for the design and development of educational materials.

(b) This section does not restrict the inclusion in educational materials of accurate information about different ways to reduce the risk of exposure to or the transmission of HIV.

Added by Acts 1991, 72nd Leg., ch. 14, Sec. 36, eff. Sept. 1, 1991.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 3.0270, eff. April 2, 2015.

Sec. 85.012. MODEL WORKPLACE GUIDELINES. (a) To ensure consistent public policy, the department, in consultation with appropriate state and local agencies and private entities, shall

develop model workplace guidelines concerning persons with HIV infection and related conditions.

(b) The model workplace guidelines must include provisions stating that:

(1) all employees will receive some education about methods of transmission and prevention of HIV infection and related conditions;

(2) accommodations will be made to keep persons with HIV infection employed and productive for as long as possible;

(3) the confidentiality of employee medical records will be protected;

(4) HIV-related policies will be consistent with current information from public health authorities, such as the Centers for Disease Control and Prevention of the United States Public Health Service, and with state and federal law and regulations;

(5) persons with HIV infection are entitled to the same rights and opportunities as persons with other communicable diseases; and

(6) employers and employees should not engage in discrimination against persons with HIV infection unless based on accurate scientific information.

(c) The department shall develop more specific model workplace guidelines for employers in businesses with educational, correctional, health, or social service responsibilities.

(d) The department shall make the model workplace guidelines available on request.

(e) Employers should be encouraged to adopt HIV-related workplace guidelines that incorporate, at a minimum, the guidelines established by the department under this section.

(f) This chapter does not create a new cause of action for a violation of workplace guidelines.

Added by Acts 1991, 72nd Leg., ch. 14, Sec. 36, eff. Sept. 1, 1991.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 3.0271, eff. April 2, 2015.

Sec. 85.014. TECHNICAL ASSISTANCE TO COMMUNITY ORGANIZATIONS. (a) The department shall provide technical assistance to nonprofit community organizations to maximize the use of limited resources and volunteer efforts and to expand the availability of health care, education, prevention, and social support services needed to address the HIV epidemic.

(b) The department shall provide technical assistance in:

(1) recruiting, training, and effectively using volunteers in the delivery of HIV-related services;

(2) identifying funding opportunities and sources, including information on developing sound grant proposals; and

(3) developing and implementing effective service delivery approaches for community-based health care, education, prevention, and social support services pertaining to HIV.

Added by Acts 1991, 72nd Leg., ch. 14, Sec. 36, eff. Sept. 1, 1991.

Sec. 85.015. CONTRACT FOR SERVICES; DURATION. (a) The department may contract with an entity to provide the services required by Subchapters A through F if:

(1) the contract would minimize duplication of effort and would deliver services cost-effectively; and

(2) the contracting entity does not advocate or promote conduct that violates state law.

(b) Subsection (a)(2) does not restrict the inclusion in educational materials of accurate information about ways to reduce the risk of exposure to or transmission of HIV.

(c) The department may audit an entity contracting with the department under Subsection (a).

(d) The department may seek, accept, and spend funds from state, federal, local, and private entities to carry out Subsections (a) through (c).

(e) A contract entered into by the department under this subchapter may not be for a term of more than one year, except that a contract may be renewed without a public hearing.

Added by Acts 1991, 72nd Leg., ch. 14, Sec. 36, eff. Sept. 1, 1991.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 3.0272,

eff. April 2, 2015.

Sec. 85.016. RULES. The executive commissioner may adopt rules necessary to implement Subchapters A through F.

Added by Acts 1991, 72nd Leg., ch. 14, Sec. 36, eff. Sept. 1, 1991.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 3.0273, eff. April 2, 2015.

## SUBCHAPTER B. STATE GRANT PROGRAM TO COMMUNITY ORGANIZATIONS

Sec. 85.031. STATE GRANT PROGRAM TO COMMUNITY ORGANIZATIONS. The department shall establish and administer a state grant program to nonprofit community organizations for:

(1) HIV education, prevention, and risk reduction programs; and

(2) treatment, health, and social service programs for persons with HIV infection.

Added by Acts 1991, 72nd Leg., ch. 14, Sec. 36, eff. Sept. 1, 1991.

Sec. 85.032. RULES; PROGRAM STRUCTURE. (a) The executive commissioner may adopt rules relating to:

(1) the services that may be furnished under the program;

(2) a system of priorities regarding the types of services provided, geographic areas covered, or classes of individuals or communities targeted for services under the program; and

(3) a process for resolving conflicts between the department and a program receiving money under this subchapter.

(b) Executive commissioner or department actions relating to service, geographic, and other priorities shall be based on the set of priorities and guidelines established under this section.

(c) In structuring the program and adopting rules, the department and the executive commissioner, as appropriate, shall attempt to:

(1) coordinate the use of federal, local, and private

funds;

(2) encourage the provision of community-based services;

(3) address needs that are not met by other sources of funding;

(4) provide funding as extensively as possible across the regions of the state in amounts that reflect regional needs; and

(5) encourage cooperation among local service providers.

Added by Acts 1991, 72nd Leg., ch. 14, Sec. 36, eff. Sept. 1, 1991.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 3.0274, eff. April 2, 2015.

Sec. 85.033. COORDINATION OF SERVICES. (a) To prevent unnecessary duplication of services, the executive commissioner and the department shall seek to coordinate the services provided by eligible programs under Subchapters A through G with existing federal, state, and local programs.

(b) The department shall consult with the Department of Aging and Disability Services and the commission to ensure that programs funded under this subchapter complement and do not unnecessarily duplicate services provided through the Department of Aging and Disability Services and the commission.

Added by Acts 1991, 72nd Leg., ch. 14, Sec. 36, eff. Sept. 1, 1991.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 3.0274, eff. April 2, 2015.

Sec. 85.034. APPLICATION PROCEDURES AND ELIGIBILITY GUIDELINES. (a) The department shall establish application procedures and eligibility guidelines for the state grants under this subchapter.

(b) Application procedures must include regional public hearings after reasonable notice in the region in which the community organization is based before awarding an initial grant or grants totalling more than $25,000 annually.

(c) Before the 10th day before the date of the public hearing, notice shall be given to each state representative and state senator who represents any part of the region in which any part of the grant will be expended.

Added by Acts 1991, 72nd Leg., ch. 14, Sec. 36, eff. Sept. 1, 1991.

Sec. 85.035. APPLICANT INFORMATION. An applicant for a state grant under this subchapter shall submit to the department for approval:

(1) a description of the objectives established by the applicant for the conduct of the program;

(2) documentation that the applicant has consulted with appropriate local officials, community groups, and individuals with expertise in HIV education and treatment and knowledge of the needs of the population to be served;

(3) a description of the methods the applicant will use to evaluate the activities conducted under the program to determine if the objectives are met; and

(4) any other information requested by the department.

Added by Acts 1991, 72nd Leg., ch. 14, Sec. 36, eff. Sept. 1, 1991.

Sec. 85.036. AWARDING OF GRANTS. (a) In awarding grants for education programs under this subchapter, the department shall give special consideration to nonprofit community organizations whose primary purpose is serving persons younger than 18 years of age.

(b) In awarding grants for treatment, health, and social services, the department shall endeavor to distribute grants in a manner that prevents unnecessary duplication of services within a community.

(c) In awarding grants for education programs, the department shall endeavor to complement existing education programs in a community, to prevent unnecessary duplication of services within a community, to provide HIV education programs for populations engaging in behaviors conducive to HIV transmission, to initiate needed HIV education programs where none exist, and to promote early intervention and treatment of persons with HIV

infection.

Added by Acts 1991, 72nd Leg., ch. 14, Sec. 36, eff. Sept. 1, 1991.

Sec. 85.037. RESTRICTIONS ON GRANTS. (a) The department may not award a grant to an entity or community organization that advocates or promotes conduct that violates state law.

(b) This section does not prohibit the award of a grant to an entity or community organization that provides accurate information about ways to reduce the risk of exposure to or transmission of HIV.

Added by Acts 1991, 72nd Leg., ch. 14, Sec. 36, eff. Sept. 1, 1991.

Sec. 85.038. RESTRICTIONS ON FUNDS. (a) The department may not use more than five percent of the funds appropriated for the grant program to employ sufficient staff to review and process grant applications, monitor and evaluate the effectiveness of funded programs, and provide technical assistance to grantees.

(b) Not more than one-third of the funds available under this subchapter may be used for HIV education, prevention, and risk reduction.

Added by Acts 1991, 72nd Leg., ch. 14, Sec. 36, eff. Sept. 1, 1991.

Sec. 85.039. INFORMATION PROVIDED BY FUNDED PROGRAM. (a) A program funded with a grant under this subchapter shall provide information and educational materials that are accurate, comprehensive, and consistent with current findings of the United States Public Health Service.

(b) Information and educational materials developed with a grant awarded under this subchapter must contain materials and be presented in a manner that is specifically directed to the group for which the materials are intended.

Added by Acts 1991, 72nd Leg., ch. 14, Sec. 36, eff. Sept. 1, 1991.

Sec. 85.040. EVALUATION OF FUNDED PROGRAMS. (a) The department shall develop evaluation criteria to document effectiveness, unit-of-service costs, and number of volunteers used in programs funded with grants under this subchapter.

(b) An organization that receives funding under the program shall:

(1) collect and maintain relevant data as required by the department; and

(2) submit to the department copies of all material the organization has printed or distributed relating to HIV infection.

(c) The department shall provide prompt assistance to grantees in obtaining materials and skills necessary to collect and report the data required under this section.

Added by Acts 1991, 72nd Leg., ch. 14, Sec. 36, eff. Sept. 1, 1991.

Sec. 85.041. RECORDS AND REPORTS. (a) The department shall require each program receiving a grant under this subchapter to maintain records and information specified by the department.

(b) The executive commissioner may adopt rules relating to the information a program is required to report to the department and shall adopt procedures and forms for reporting the information to prevent unnecessary and duplicative reporting of data.

(c) The department shall review records, information, and reports prepared by programs funded under this subchapter. Before December 1 of each year, the department shall prepare a report that is available to the public and that summarizes data regarding the type, level, quality, and cost-effectiveness of services provided under this subchapter.

Added by Acts 1991, 72nd Leg., ch. 14, Sec. 36, eff. Sept. 1, 1991.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 3.0275, eff. April 2, 2015.

Sec. 85.042. FINANCIAL RECORDS. (a) The department shall review periodically the financial records of a program funded with a grant under this subchapter.

(b) As a condition of accepting a grant under this subchapter, a community organization must allow the department to periodically review the financial records of that organization.

Added by Acts 1991, 72nd Leg., ch. 14, Sec. 36, eff. Sept. 1, 1991.

Sec. 85.043. DUE PROCESS. The department may provide a due process hearing procedure for the resolution of conflicts between the department and a program funded with a state grant under this subchapter.

Added by Acts 1991, 72nd Leg., ch. 14, Sec. 36, eff. Sept. 1, 1991.

Sec. 85.044. ADVISORY COMMITTEE. The executive commissioner may appoint an advisory committee to assist in the development of procedures and guidelines required by this subchapter.

Added by Acts 1991, 72nd Leg., ch. 14, Sec. 36, eff. Sept. 1, 1991.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 3.0276, eff. April 2, 2015.

## SUBCHAPTER C. HIV MEDICATION PROGRAM

Sec. 85.061. HIV MEDICATION PROGRAM. (a) The Texas HIV medication program is established in the department.

(b) The program shall assist hospital districts, local health departments, public or nonprofit hospitals and clinics, nonprofit community organizations, and HIV-infected individuals in the purchase of medications approved by the commissioner that have been shown to be effective in reducing hospitalizations due to HIV-related conditions.

Added by Acts 1991, 72nd Leg., ch. 14, Sec. 36, eff. Sept. 1, 1991.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 3.0277, eff. April 2, 2015.

Sec. 85.062. ELIGIBILITY. (a) To be eligible for the program, an individual:

(1) must not be eligible for Medicaid benefits;

(2) must meet financial eligibility criteria set by department rule;

(3) must not qualify for any other state or federal

program available for financing the purchase of the prescribed medication; and

(4) must be diagnosed by a licensed physician as having AIDS or an HIV-related condition or illness of at least the minimal severity set by the executive commissioner.

(b) The department shall give priority to participation in the program to eligible individuals younger than 18 years of age.

Added by Acts 1991, 72nd Leg., ch. 14, Sec. 36, eff. Sept. 1, 1991.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 3.0278, eff. April 2, 2015.

Sec. 85.063. PROCEDURES AND ELIGIBILITY GUIDELINES. The executive commissioner by rule shall establish:

(1) application and distribution procedures;

(2) eligibility guidelines to ensure the most appropriate distribution of funds available each year; and

(3) appellate procedures to resolve any eligibility or funding conflicts.

Added by Acts 1991, 72nd Leg., ch. 14, Sec. 36, eff. Sept. 1, 1991.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 3.0279, eff. April 2, 2015.

Sec. 85.064. FUNDING. (a) The department may accept and use local, state, and federal funds and private donations to fund the program.

(b) State, local, and private funds may be used to qualify for federal matching funds if federal funding becomes available.

(c) A hospital district, local health department, public or nonprofit hospital or clinic, or nonprofit community organization may participate in the program by sending funds to the department for the purpose of providing assistance to clients for the purchase of HIV medication. A hospital district may send funds obtained from any source, including taxes levied by the district.

(d) The department shall deposit money received under this section in the state treasury to the credit of the general revenue

fund.

(e) Funds received from a hospital district, local health department, public or nonprofit hospital or clinic, or nonprofit community organization under this section may be used only to provide assistance to clients of that entity. The funds may be supplemented with other funds available for the purpose of the program.

(f) Funds appropriated by the General Appropriations Act may not be transferred from other line items for the program.

Added by Acts 1991, 72nd Leg., ch. 14, Sec. 36, eff. Sept. 1, 1991.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 3.0280, eff. April 2, 2015.

Sec. 85.065. SLIDING FEE SCALE TO PURCHASE MEDICATION. The department may institute a sliding fee scale to help eligible HIV-infected individuals purchase medications under the program.

Added by Acts 1991, 72nd Leg., ch. 14, Sec. 36, eff. Sept. 1, 1991.

## SUBCHAPTER D. TESTING PROGRAMS AND COUNSELING

Sec. 85.081. MODEL PROTOCOLS FOR COUNSELING AND TESTING. (a) The department shall develop, and the executive commissioner shall adopt, model protocols for counseling and testing related to HIV infection. The protocols shall be made available to health care providers on request.

(b) A testing program shall adopt and comply with the model protocols developed by the department under Subsection (a).

Added by Acts 1991, 72nd Leg., ch. 14, Sec. 36, eff. Sept. 1, 1991.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 3.0281, eff. April 2, 2015.

Sec. 85.082. DEPARTMENT VOLUNTARY TESTING PROGRAMS. (a) The department shall establish voluntary HIV testing programs in each public health region to make confidential counseling and testing available. The department shall complete contact tracing

after a confirmed positive test.

(b) The department may contract with public and private entities to perform the testing as necessary according to local circumstances.

(c) The results of a test conducted by a testing program or department program under this section may not be used for insurance purposes, to screen or determine suitability for employment, or to discharge a person from employment.

(d) A person who is injured by an intentional violation of Subsection (c) may bring a civil action for damages and may recover for each violation from a person who violates Subsection (c):

(1) $1,000 or actual damages, whichever is greater; and

(2) reasonable attorney fees.

(e) In addition to the remedies provided by Subsection (d), the person may bring an action to restrain a violation or threatened violation of Subsection (c).

Added by Acts 1991, 72nd Leg., ch. 14, Sec. 36, eff. Sept. 1, 1991.

Sec. 85.085. PHYSICIAN SUPERVISION OF MEDICAL CARE. A licensed physician shall supervise any medical care or procedure provided under a testing program.

Added by Acts 1991, 72nd Leg., ch. 14, Sec. 36, eff. Sept. 1, 1991.

Sec. 85.086. REPORTS. A testing program shall report test results for HIV infection in the manner provided by Chapter 81 (Communicable Disease Prevention and Control Act).

Added by Acts 1991, 72nd Leg., ch. 14, Sec. 36, eff. Sept. 1, 1991.

Sec. 85.087. TRAINING OF COUNSELORS. (a) The department shall develop and offer a training course for persons providing HIV counseling. The training course shall include information relating to the special needs of persons with positive HIV test results, including the importance of early intervention and treatment and recognition of psychosocial needs.

(b) The department shall maintain a registry of persons who successfully complete the training course.

(c) The department may charge a fee for the course to persons other than employees of entities receiving state or federal funds for HIV counseling and testing programs through a contract with the department.

(d) The executive commissioner by rule shall set the fee in an amount that is reasonable and necessary to cover the costs of providing the course.

(e) The department may contract for the training of counselors.

Added by Acts 1991, 72nd Leg., ch. 14, Sec. 36, eff. Sept. 1, 1991.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 3.0282, eff. April 2, 2015.

Sec. 85.088. STATE-FUNDED HEALTH CLINICS. (a) State-funded primary health, women's reproductive health, and sexually transmitted disease clinics shall:

(1) make available to patients and clients information and educational materials concerning the prevention of HIV infection; and

(2) provide or refer patients and clients to voluntary and affordable counseling and HIV testing services, including the patient's or client's choice of anonymous or confidential HIV testing or counseling.

(b) Information provided under Subsection (a)(1) shall be routinely incorporated into patient education and counseling in clinics specializing in sexually transmitted diseases and women's reproductive health.

Added by Acts 1991, 72nd Leg., ch. 14, Sec. 36, eff. Sept. 1, 1991.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 3.0283, eff. April 2, 2015.

Sec. 85.089. DISCIPLINARY ACTION. This subchapter does not prohibit disciplinary proceedings from being conducted by the appropriate licensing authorities for a health care provider's violation of this subchapter.

Added by Acts 1991, 72nd Leg., ch. 14, Sec. 36, eff. Sept. 1, 1991.

SUBCHAPTER E. DUTIES OF STATE AGENCIES AND STATE CONTRACTORS

Sec. 85.111. EDUCATION OF STATE EMPLOYEES. (a) Each state agency annually shall provide to each state employee educational information about:

(1) methods of transmission and prevention of HIV infection;

(2) state laws relating to the transmission of HIV infection; and

(3) conduct that may result in the transmission of HIV infection.

(b) The educational information shall be provided to a newly hired state employee on the first day of employment.

(c) The educational information shall be based on the model developed by the department and shall include the workplace guidelines adopted by the state agency.

(d) The department shall prepare and distribute to each state agency a model informational pamphlet that can be reproduced by each state agency to meet the requirements of this section.

Added by Acts 1991, 72nd Leg., ch. 14, Sec. 36, eff. Sept. 1, 1991.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 3.0284, eff. April 2, 2015.

Sec. 85.112. WORKPLACE GUIDELINES. (a) Each state agency shall adopt and implement workplace guidelines concerning persons with AIDS and HIV infection.

(b) The workplace guidelines shall incorporate at a minimum the model workplace guidelines developed by the department.

Added by Acts 1991, 72nd Leg., ch. 14, Sec. 36, eff. Sept. 1, 1991.

Sec. 85.113. WORKPLACE GUIDELINES FOR STATE CONTRACTORS. An entity that contracts with or is funded by any of the following state agencies to operate a program involving direct client contact shall adopt and implement workplace guidelines

similar to the guidelines adopted by the agency that funds or contracts with the entity:

(1) the Department of Assistive and Rehabilitative Services;

(2) the Texas Juvenile Justice Department;

(3) the Texas Department of Criminal Justice;

(4) the department;

(5) the Department of Aging and Disability Services; and

(6) the commission.

Added by Acts 1991, 72nd Leg., ch. 14, Sec. 36, eff. Sept. 1, 1991. Amended by Acts 1995, 74th Leg., ch. 835, Sec. 25, eff. Sept. 1, 1995.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 3.0285, eff. April 2, 2015.

Sec. 85.114. EDUCATION OF CERTAIN CLIENTS, INMATES, PATIENTS, AND RESIDENTS. (a) Each state agency listed in Section 85.113 shall routinely make available HIV education for clients, inmates, patients, and residents of treatment, educational, correctional, or residential facilities under the agency's jurisdiction.

(b) Education available under this section shall be based on the model educational materials developed by the department and tailored to the cultural, educational, language, and developmental needs of the clients, inmates, patients, or residents, including the use of Braille or telecommunication devices for the deaf.

Added by Acts 1991, 72nd Leg., ch. 14, Sec. 36, eff. Sept. 1, 1991.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 3.0286, eff. April 2, 2015.

Sec. 85.115. CONFIDENTIALITY GUIDELINES. (a) Each state agency shall develop and implement guidelines regarding confidentiality of AIDS and HIV-related medical information for employees of the agency and for clients, inmates, patients, and

residents served by the agency.

(b) Each entity that receives funds from a state agency for residential or direct client services or programs shall develop and implement guidelines regarding confidentiality of AIDS and HIV-related medical information for employees of the entity and for clients, inmates, patients, and residents served by the entity.

(c) The confidentiality guidelines shall be consistent with guidelines published by the department and with state and federal law and regulations.

(d) An entity that does not adopt confidentiality guidelines as required by Subsection (b) is not eligible to receive state funds until the guidelines are developed and implemented.
Added by Acts 1991, 72nd Leg., ch. 14, Sec. 36, eff. Sept. 1, 1991.

Sec. 85.116. TESTING AND COUNSELING FOR STATE EMPLOYEES EXPOSED TO HIV INFECTION ON THE JOB. (a) On an employee's request, a state agency shall pay the costs of testing and counseling an employee of that agency concerning HIV infection if:

(1) the employee documents to the agency's satisfaction that the employee may have been exposed to HIV while performing duties of employment with that agency; and

(2) the employee was exposed to HIV in a manner that the United States Public Health Service has determined is capable of transmitting HIV.

(b) The executive commissioner by rule shall prescribe the criteria that constitute possible exposure to HIV under this section. The criteria must be based on activities the United States Public Health Service determines pose a risk of HIV infection.

(c) For the purpose of qualifying for workers' compensation or any other similar benefits or compensation, an employee who claims a possible work-related exposure to HIV infection must provide the employer with a written statement of the date and circumstances of the exposure and document that, within 10 days after the date of the exposure, the employee had a test result that indicated an absence of HIV infection.

(d) The cost of a state employee's testing and counseling

shall be paid from funds appropriated for payment of workers' compensation benefits to state employees. The State Office of Risk Management shall adopt rules necessary to administer this subsection.

(e) Counseling or a test conducted under this section must conform to the model protocol on HIV counseling and testing prescribed by the department.

(f) A state employee who may have been exposed to HIV while performing duties of state employment may not be required to be tested.

Added by Acts 1991, 72nd Leg., ch. 14, Sec. 36, eff. Sept. 1, 1991.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 3.0287, eff. April 2, 2015.

## SUBCHAPTER G. POLICIES OF CORRECTIONAL AND LAW ENFORCEMENT AGENCIES, FIRE DEPARTMENTS, AND EMERGENCY MEDICAL SERVICES PROVIDERS

Sec. 85.141. MODEL POLICIES CONCERNING PERSONS IN CUSTODY. The department, in consultation with appropriate correctional and law enforcement agencies, fire departments, and emergency medical services providers, shall develop model policies regarding the handling, care, and treatment of persons with AIDS or HIV infection who are in the custody of the Texas Department of Criminal Justice, local law enforcement agencies, municipal and county correctional facilities, and district probation departments.

Added by Acts 1991, 72nd Leg., ch. 14, Sec. 36, eff. Sept. 1, 1991.

Sec. 85.142. ADOPTION OF POLICY. (a) Each state and local law enforcement agency, fire department, emergency medical services provider, municipal and county correctional facility, and district probation department shall adopt a policy for handling persons with AIDS or HIV infection who are in their custody or under their supervision.

(b) The policy must be substantially similar to a model policy developed by the department under Section 85.141.

(c) A policy adopted under this section applies to persons who contract or subcontract with an entity required to adopt the policy under Subsection (a).

Added by Acts 1991, 72nd Leg., ch. 14, Sec. 36, eff. Sept. 1, 1991.

Sec. 85.143. CONTENT OF POLICY. A policy adopted under this subchapter must:

(1) provide for periodic education of employees, inmates, and probationers concerning HIV;

(2) ensure that education programs for employees include information and training relating to infection control procedures and that employees have infection control supplies and equipment readily available; and

(3) ensure access to appropriate services and protect the confidentiality of medical records relating to HIV infection.

Added by Acts 1991, 72nd Leg., ch. 14, Sec. 36, eff. Sept. 1, 1991.

## SUBCHAPTER I. PREVENTION OF TRANSMISSION OF HIV AND HEPATITIS B VIRUS BY INFECTED HEALTH CARE WORKERS

Sec. 85.201. LEGISLATIVE FINDINGS. (a) The legislature finds that:

(1) the Centers for Disease Control and Prevention of the United States Public Health Service have made recommendations for preventing transmission of human immunodeficiency virus (HIV) and hepatitis B virus (HBV) to patients in the health care setting;

(2) the Centers for Disease Control and Prevention of the United States Public Health Service have found that when health care workers adhere to recommended infection-control procedures, the risk of transmitting HBV from an infected health care worker to a patient is small, and the risk of transmitting HIV is likely to be even smaller;

(3) the risk of transmission of HIV and HBV in health care settings will be minimized if health care workers adhere to the Centers for Disease Control and Prevention of the United States Public Health Service recommendations; and

(4) health care workers who perform exposure-prone

procedures should know their HIV antibody status; health care workers who perform exposure-prone procedures and who do not have serologic evidence of immunity to HBV from vaccination or from previous infection should know their HBsAg status and, if that is positive, should also know their HBeAg status.

(b) Any testing for HIV antibody status shall comply with Subchapters C, D, and F, Chapter 81.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 15, Sec. 5.05, eff. Sept. 1, 1991.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 3.0288, eff. April 2, 2015.

Sec. 85.202. DEFINITIONS. In this subchapter:

(1) "Exposure-prone procedure" means a specific invasive procedure that poses a direct and significant risk of transmission of HIV or hepatitis B virus, as designated by a health professional association or health facility, as provided by Section 85.204(b)(4).

(2) "Health care worker" means a person who furnishes health care services in direct patient care situations under a license, certificate, or registration issued by this state or a person providing direct patient care in the course of a training or educational program.

(3) "Invasive procedure" means:

(A) a surgical entry into tissues, cavities, or organs; or

(B) repair of major traumatic injuries associated with any of the following:

(i) an operating or delivery room, emergency department, or outpatient setting, including a physician's or dentist's office;

(ii) cardiac catheterization or angiographic procedures;

(iii) a vaginal or cesarean delivery or other invasive obstetric procedure during which bleeding may occur; or

(iv) the manipulation, cutting, or removal of any oral or perioral tissues, including tooth structure, during which bleeding occurs or the potential for bleeding exists.

(4) "Universal precautions" means procedures for disinfection and sterilization of reusable medical devices and the appropriate use of infection control, including hand washing, the use of protective barriers, and the use and disposal of needles and other sharp instruments as those procedures are defined by the Centers for Disease Control and Prevention of the United States Public Health Service.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 15, Sec. 5.05, eff. Sept. 1, 1991.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 3.0289, eff. April 2, 2015.

Sec. 85.203. INFECTION CONTROL STANDARDS. (a) All health care workers shall adhere to universal precautions as defined by this subchapter.

(b) Health care workers with exudative lesions or weeping dermatitis shall refrain from all direct patient care and from handling patient care equipment and devices used in performing invasive procedures until the condition resolves.

(c) All institutions of higher education and professional and vocational schools training health care workers shall provide instruction on universal precautions.

(d) Health care institutions shall establish procedures for monitoring compliance with universal precautions.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 15, Sec. 5.05, eff. Sept. 1, 1991.

Sec. 85.204. MODIFICATION OF PRACTICE. (a) Except as provided by Subsections (b) and (c), a health care worker who is infected with HIV or who is infected with hepatitis B virus and is HBeAg positive may not perform an exposure-prone procedure.

(b)(1) A health care worker who is infected with HIV or who is infected with hepatitis B virus and is HBeAg positive may perform an

exposure-prone procedure only if the health care worker has sought counsel from an expert review panel and been advised under what circumstances, if any, the health care worker may continue to perform the exposure-prone procedure.

(2) An expert review panel should include the health care worker's personal physician and experts with knowledge of infectious diseases, infection control, the epidemiology of HIV and hepatitis B virus, and procedures performed by the health care worker.

(3) All proceedings and communications of the expert review panel are confidential and release of information relating to a health care worker's HIV status shall comply with Chapter 81.

(4) Health professional associations and health facilities should develop guidelines for expert review panels and identify exposure-prone procedures, as defined by this subchapter.

(c) A health care worker who performs an exposure-prone procedure as provided under Subsection (b) shall notify a prospective patient of the health care worker's seropositive status and obtain the patient's consent before the patient undergoes an exposure-prone procedure, unless the patient is unable to consent.

(d) To promote the continued use of the talents, knowledge, and skills of a health care worker whose practice is modified because of the worker's HIV or hepatitis B virus infection status, the worker should:

(1) be provided opportunities to continue patient care activities, if practicable; and

(2) receive career counseling and job retraining.

(e) A health care worker whose practice is modified because of hepatitis B virus infection may request periodic redeterminations by the expert review panel under Subsection (b) of any change in the worker's HBeAg status due to resolution of infection or as a result of treatment.

(f) A health care worker who is infected with HIV or who is infected with hepatitis B virus and is HBeAg positive who performs invasive procedures not identified as exposure-prone should not have his or her practice restricted, provided the infected health care worker adheres to the standards for infection control provided

in Section 85.203.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 15, Sec. 5.05, eff. Sept. 1, 1991.

Sec. 85.205. DISCIPLINARY PROCEDURES. A health care worker who fails to comply with this subchapter is subject to disciplinary procedures by the appropriate licensing entity.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 15, Sec. 5.05, eff. Sept. 1, 1991.

Sec. 85.206. RETENTION OF LICENSE; PERMITTED ACTS. This subchapter does not:

(1) require the revocation of the license, registration, or certification of a health care worker who is infected with HIV or hepatitis B virus;

(2) prohibit a health care worker who is infected with HIV or hepatitis B virus and who adheres to universal precautions, as defined by this subchapter, from:

(A) performing procedures not identified as exposure-prone; or

(B) providing health care services in emergency situations;

(3) prohibit a health care worker who is infected with HIV and who adheres to universal precautions from providing health care services, including exposure-prone procedures, to persons who are infected with HIV; or

(4) require the testing of health care workers.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 15, Sec. 5.05, eff. Sept. 1, 1991.

## SUBCHAPTER J. HOME COLLECTION KITS FOR HIV INFECTION TESTING

Sec. 85.251. DEFINITIONS. In this subchapter:

(1) "Home collection kit" means a product sold to the general public and used by an individual to collect a specimen from the human body and to submit the specimen to a laboratory for testing and a report.

(2) "Service provider" means the manufacturer of a home collection kit or a person designated by the manufacturer to provide the services required by this subchapter.

Added by Acts 1995, 74th Leg., ch. 33, Sec. 1, eff. April 28, 1995.

Sec. 85.252. PROHIBITIONS RELATING TO HOME COLLECTION KIT. A person may not market, distribute, or sell a home collection kit for HIV infection testing in this state unless the kit complies with Chapter 431.

Added by Acts 1995, 74th Leg., ch. 33, Sec. 1, eff. April 28, 1995.

Sec. 85.253. PROHIBITIONS RELATING TO HOME TESTING. (a) A person may not market, distribute, or sell a product to be used by a member of the public to test a specimen collected from the human body for HIV infection unless the kit complies with Chapter 431.

(b) This section does not apply to a product marketed, distributed, or sold only to physicians or other persons authorized by law to test for HIV infection a specimen collected from the human body.

(c) A person may not require an individual to be tested for HIV infection as provided in Section 81.102.

Added by Acts 1995, 74th Leg., ch. 33, Sec. 1, eff. April 28, 1995.

Sec. 85.254. PACKAGE OF SERVICES. A home collection kit for HIV infection testing shall be sold as part of a package of services that includes:

(1) laboratory testing by a qualified facility;

(2) reporting of test results;

(3) verification of positive test results;

(4) counseling as required by this subchapter; and

(5) information, upon request, describing how test results and related information are stored by the service provider, how long the information is retained, and under what circumstances the information may be communicated to other persons.

Added by Acts 1995, 74th Leg., ch. 33, Sec. 1, eff. April 28, 1995.

Sec. 85.255. QUALIFIED FACILITY. A laboratory facility

that conducts testing of a specimen collected with a home collection kit for HIV infection testing must comply with the Clinical Laboratory Improvement Amendments of 1988 (42 U.S.C. Section 263a).

Added by Acts 1995, 74th Leg., ch. 33, Sec. 1, eff. April 28, 1995.

Sec. 85.256. ORAL REPORTING. A service provider shall report test results from a home collection kit for HIV infection testing orally to the individual tested. Notwithstanding Section 81.109, the test results may be provided by telephone.

Added by Acts 1995, 74th Leg., ch. 33, Sec. 1, eff. April 28, 1995.

Sec. 85.257. COUNSELING; COUNSELING PROTOCOLS. (a) A service provider shall provide pretesting counseling to an individual who is considering using a home collection kit for HIV infection testing. This counseling may be provided orally by telephone or through written information included with the home collection kit.

(b) At the time the test results are reported to the individual tested, the service provider shall provide counseling and appropriate referrals for care and treatment.

(c) Counseling provided by a service provider, including written information provided under Subsection (a) and referrals, must conform with counseling protocols adopted by the executive commissioner. Except as provided by Section 85.256, the counseling protocols must be consistent with the requirements of Section 81.109 and the protocols adopted under Section 85.081.

(d) Counseling provided by a service provider under this section must be provided in English and in Spanish. The department may require a service provider to provide counseling in another language if the department finds that the service provider is marketing home collection kits in a community in which a significant portion of the population speaks a language other than English or Spanish.

(e) A service provider, in providing counseling, may not:

(1) solicit the purchase of additional services or products; or

(2) refer the individual being counseled to an entity:

(A) that is owned or controlled by the service provider;

(B) that owns or controls the service provider;

(C) that is owned or controlled by an entity that owns or controls the service provider; or

(D) that has another ongoing financial relationship with the service provider.

Added by Acts 1995, 74th Leg., ch. 33, Sec. 1, eff. April 28, 1995.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 3.0290, eff. April 2, 2015.

Sec. 85.258. LABELING. (a) A home collection kit for HIV infection testing shall meet the requirements of Chapter 431.

(b) In addition to the requirements in Subsection (a), the labeling shall explain which persons and entities will have access to the test results for the individual.

(c) In addition to the labeling requirements in Subsections (a) and (b), a home collection kit labeled in Spanish must also be available. The department may require a service provider to label a home collection kit in another language if the department finds that the service provider is marketing home collection kits in a community in which a significant portion of the population speaks a language other than English or Spanish.

Added by Acts 1995, 74th Leg., ch. 33, Sec. 1, eff. April 28, 1995.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 3.0291, eff. April 2, 2015.

Sec. 85.259. ENFORCEMENT. A home collection kit for HIV infection testing is a "device" as that term is defined in Section 431.002 and is subject to the provisions for enforcement contained in Chapter 431. Any violation of the requirement in Section 85.258 shall be subject to the enforcement provisions of Chapter 431.

Added by Acts 1995, 74th Leg., ch. 33, Sec. 1, eff. April 28, 1995.

Sec. 85.260. CONFIDENTIALITY. (a) Any statement that an identifiable individual has or has not been tested with a home collection kit for HIV infection testing, including a statement or assertion that the individual is positive, is negative, is at risk, or has or does not have a certain level of antigen or antibody, is confidential as provided by Section 81.103.

(b) A person commits an offense if the person violates this section. The punishment for an offense under this section is the same as the punishment for an offense under Section 81.103.

Added by Acts 1995, 74th Leg., ch. 33, Sec. 1, eff. April 28, 1995.

Sec. 85.261. CERTAIN TECHNOLOGY PROHIBITED. A service provider may not use technology that permits the service provider to identify an individual to whom test results or counseling is provided or to identify the telephone number from which that individual is calling.

Added by Acts 1995, 74th Leg., ch. 33, Sec. 1, eff. April 28, 1995.

Sec. 85.262. REPORTS. A service provider shall report test results from a home collection kit for HIV infection testing in the manner provided by Subchapter C, Chapter 81.

Added by Acts 1995, 74th Leg., ch. 33, Sec. 1, eff. April 28, 1995.

## SUBCHAPTER K. TEXAS HIV MEDICATION ADVISORY COMMITTEE

Sec. 85.271. DEFINITIONS. In this subchapter:

(1) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1, Sec. 3.1639(32), eff. April 2, 2015.

(2) "Committee" means the Texas HIV Medication Advisory Committee.

(3) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1, Sec. 3.1639(32), eff. April 2, 2015.

(4) "Program" means the Texas HIV medication program established under Subchapter C.

Added by Acts 2011, 82nd Leg., R.S., Ch. 520 (H.B. 2229), Sec. 1, eff. September 1, 2011.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 3.1639(32), eff. April 2, 2015.

Sec. 85.272. TEXAS HIV MEDICATION ADVISORY COMMITTEE. (a) The executive commissioner shall establish the committee.

(b) The committee consists of 11 members appointed by the executive commissioner. The committee must include:

(1) three physicians who are actively engaged in the treatment of adults who are infected with HIV;

(2) one physician who is actively engaged in the treatment of infants and children who are infected with HIV;

(3) four consumers who are diagnosed with HIV;

(4) one person who is an administrator for a public, nonprofit hospital that provides services to individuals who are infected with HIV;

(5) one social worker who works with individuals who are infected with HIV; and

(6) one pharmacist who participates in the program.

(c) The department shall provide staff support for the committee.

(d) Except as provided by this subchapter, the committee is subject to Chapter 2110, Government Code.

Added by Acts 2011, 82nd Leg., R.S., Ch. 520 (H.B. 2229), Sec. 1, eff. September 1, 2011.

Sec. 85.273. DUTIES. (a) The committee shall advise the executive commissioner and the department in the development of procedures and guidelines for the program.

(b) The committee shall:

(1) review the program's goals and aims;

(2) evaluate the program's ongoing efforts;

(3) recommend both short-range and long-range goals and objectives for medication needs; and

(4) perform any other tasks assigned by the executive commissioner.

Added by Acts 2011, 82nd Leg., R.S., Ch. 520 (H.B. 2229), Sec. 1, eff. September 1, 2011.

Sec. 85.274. TERMS. A committee member serves at the will of the executive commissioner.

Added by Acts 2011, 82nd Leg., R.S., Ch. 520 (H.B. 2229), Sec. 1, eff. September 1, 2011.

Sec. 85.275. OFFICERS. (a) The committee shall select a presiding officer and an assistant presiding officer from the committee members.

(b) An officer shall begin serving on March 1 of each odd-numbered year and serve until February 27 of the following odd-numbered year.

(c) An officer may continue to serve until a replacement is elected for the officer's position.

(d) The presiding officer shall:

(1) preside at all committee meetings attended by the presiding officer;

(2) call meetings in accordance with this subchapter;

(3) appoint subcommittees as necessary; and

(4) ensure annual reports are made to the commissioner.

(e) The presiding officer may serve as an ex officio member of any subcommittee.

(f) The assistant presiding officer shall:

(1) perform the duties of the presiding officer if the presiding officer is absent or is not able to perform those duties because of disability; and

(2) complete the unexpired portion of the presiding officer's term if the office of the presiding officer becomes vacant.

(g) The committee may elect a committee member to replace the assistant presiding officer if the office of the assistant presiding officer becomes vacant.

Added by Acts 2011, 82nd Leg., R.S., Ch. 520 (H.B. 2229), Sec. 1, eff. September 1, 2011.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 3.0292,

eff. April 2, 2015.

Sec. 85.276. MEETINGS. (a) The committee shall meet only as necessary to conduct committee business.

(b) A meeting may be called by agreement between the department staff and:

(1) the presiding officer; or

(2) three or more members of the committee.

(c) The department staff shall:

(1) make meeting arrangements; and

(2) contact each committee member to determine the member's availability for a meeting date and place.

(d) The committee is not a "governmental body" as defined by Chapter 551, Government Code. However, each committee meeting must be announced and conducted in accordance with Chapter 551, Government Code, except that the provisions allowing executive sessions do not apply to the committee.

(e) Each member of the committee must be informed of a committee meeting at least five working days before the meeting is to take place.

(f) An agenda for each committee meeting must include an item entitled "public comment" under which any person may address the committee on matters relating to committee business. The presiding officer may establish procedures for public comment, including a time limit for each comment.

Added by Acts 2011, 82nd Leg., R.S., Ch. 520 (H.B. 2229), Sec. 1, eff. September 1, 2011.

Sec. 85.277. ATTENDANCE. (a) A member shall attend:

(1) a scheduled committee meeting; and

(2) a meeting of a subcommittee to which the member is assigned.

(b) A member shall notify the presiding officer or the appropriate department staff if the member is unable to attend a scheduled meeting.

(c) The committee shall include the attendance records of each member in the committee's annual report to the

commissioner. The report must include a member's attendance at both committee and subcommittee meetings.

Added by Acts 2011, 82nd Leg., R.S., Ch. 520 (H.B. 2229), Sec. 1, eff. September 1, 2011.

Sec. 85.278. PROCEDURES. (a) The committee shall use Robert's Rules of Order as the basis of parliamentary decisions except as provided by other law or rule.

(b) An action taken by the committee must be approved by a majority vote of the members present after a quorum is established.

(c) Each member shall have one vote.

(d) A member may not authorize another individual to represent the member by proxy.

(e) The committee shall make decisions in the discharge of the committee's duties without discrimination based on a person's race, creed, gender, religion, national origin, age, physical condition, or economic status.

(f) The department staff shall take minutes of each committee meeting. After the minutes are approved by the committee, the presiding officer shall sign the minutes.

Added by Acts 2011, 82nd Leg., R.S., Ch. 520 (H.B. 2229), Sec. 1, eff. September 1, 2011.

Sec. 85.279. SUBCOMMITTEES. (a) The committee may establish subcommittees as necessary to assist the committee in performing the committee's duties.

(b) The presiding officer shall appoint committee members to serve on subcommittees and to act as subcommittee chairs. The presiding officer may appoint a person who is not a committee member to serve on a subcommittee.

(c) A subcommittee shall meet when called by the subcommittee's chair or when directed by the committee.

(d) A subcommittee chair shall make a regular report to the committee at each committee meeting or in an interim written report as needed. The report must include an executive summary or minutes of each subcommittee meeting.

Added by Acts 2011, 82nd Leg., R.S., Ch. 520 (H.B. 2229), Sec. 1,

eff. September 1, 2011.

Sec. 85.280. STATEMENT BY MEMBER; MEMBER DUTIES. (a) The executive commissioner, the department, and the committee may not be bound by any statement made or action taken by a committee member unless the member makes the statement or takes the action based on specific instructions from the executive commissioner, the department, or the committee.

(b) The committee and committee members may not participate in any legislative activity in the name of the executive commissioner, the department, or the committee unless the committee or committee member obtains approval through the department's legislative process. Committee members may represent themselves or another entity in the legislative process.

(c) A committee member may not accept or solicit a benefit that might reasonably tend to influence the member in the discharge of the member's official duties.

(d) A committee member may not disclose confidential information acquired through the member's service on the committee.

(e) A committee member may not knowingly solicit, accept, or agree to accept a benefit for exercising the member's official powers or duties in favor of another person.

(f) A committee member who has a personal or private interest in a matter pending before the committee shall publicly disclose the fact and may not vote or otherwise participate in the matter.

(g) In this section, "personal or private interest" means a direct pecuniary interest in a matter but does not include a person's engagement in a profession, trade, or occupation if the person's interest is the same as any other person who is similarly engaged in the profession, trade, or occupation.

Added by Acts 2011, 82nd Leg., R.S., Ch. 520 (H.B. 2229), Sec. 1, eff. September 1, 2011.

Sec. 85.281. COMPENSATION; EXPENSES. (a) A committee member may receive reimbursement for expenses incurred for each day the member engages in official committee business if the

reimbursement is authorized by the General Appropriations Act or through the budget execution process.

(b) A committee member is not entitled to a salary or stipend unless required by law.

(c) A committee member who is an employee of a state agency, other than the department, is not entitled to reimbursement for expenses from the department.

(d) A person who serves on a subcommittee and who is not a committee member is not entitled to reimbursement for expenses from the department.

(e) Only a consumer who is diagnosed with HIV and serves as a committee member is eligible for reimbursement of actual travel expenses incurred.

(f) A committee member who is eligible for reimbursement of expenses shall submit to the department staff the member's receipts for the expenses and any required forms not later than 14 days after a committee meeting.

(g) A member shall make a request for reimbursement of expenses on an official state travel voucher prepared by the department staff.

Added by Acts 2011, 82nd Leg., R.S., Ch. 520 (H.B. 2229), Sec. 1, eff. September 1, 2011.

Sec. 85.282. REPORTS. (a) The committee shall file an annual written report with the commissioner not later than March 31 of each year. The report must cover the meetings and activities of the committee for the year preceding the date of the report.

(b) The report must include:

(1) the meeting dates of the committee and any subcommittee;

(2) attendance records for each committee member;

(3) a brief description of any action taken by the committee;

(4) a description of how the committee has accomplished any specific tasks officially given to the committee;

(5) the status of any rules recommended by the committee; and

(6) the anticipated activities of the committee for the following year.

(c) The committee shall identify the costs for the committee's existence in the report, including the cost of department staff used to support the committee's activities and the source of funds used to support the committee's activities.

(d) The presiding officer and appropriate department staff shall sign the report.

Added by Acts 2011, 82nd Leg., R.S., Ch. 520 (H.B. 2229), Sec. 1, eff. September 1, 2011.